

1 HB335
2 174260-1
3 By Representative Williams (JD)
4 RFD: Judiciary
5 First Read: 25-FEB-16

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8 SYNOPSIS: Under existing law, if at any stage of a
9 criminal or juvenile proceeding, the defendant, the
10 juvenile, or a witness informs the court that he or
11 she cannot understand the English language the
12 court may appoint an interpreter or if he or she is
13 deaf, the court is required to appoint an
14 interpreter.

15 This bill would specify that the court may
16 appoint an interpreter during a protection from
17 abuse proceeding and during the intake process for
18 a juvenile court proceeding upon request of the
19 defendant, juvenile, or witness. This bill would
20 clarify that the complainant and the petitioner in
21 any of these proceedings could request an
22 interpreter.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
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1 To amend Sections 12-21-131 and 15-1-3 of the Code
2 of Alabama 1975, relating to interpreters in certain criminal
3 and juvenile proceedings; to expand the types of proceedings
4 for which an interpreter may be requested and to clarify the
5 persons who may request an interpreter.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 12-21-131 and 15-1-3 of the Code
8 of Alabama 1975, are amended to read as follows:

9 "§12-21-131.

10 "(a) "Deaf person" means any person either totally
11 deaf, or who has defective hearing, or who has both defective
12 hearing and speech.

13 "(b) For the purpose of this section, the term
14 "qualified interpreter" means an interpreter certified by the
15 National Registry of Interpreters for the Deaf, Alabama
16 Registry of Interpreters for the Deaf, or, in the event an
17 interpreter so certified is not available, an interpreter
18 whose qualifications are otherwise determined. Efforts to
19 obtain the services of a qualified interpreter certified with
20 a legal skills certificate or a comprehensive skills
21 certificate will be made prior to accepting services of an
22 interpreter with lesser certification. No "qualified
23 interpreter" shall be appointed unless the appointing
24 authority and the deaf person make a preliminary determination
25 that the interpreter is able to readily communicate with the
26 deaf person and is able to accurately interpret the statements

1 of the deaf person and interpret the proceedings in which a
2 deaf person may be involved.

3 "(c) In any case in law or equity before any court
4 or the grand jury or during the juvenile court intake process
5 conducted pursuant to Sections 12-15-118 and 12-15-120 and
6 Rule 12 of the Alabama Rules of Juvenile Procedure, wherein
7 any deaf person is a party to such action, either as a
8 complainant, petitioner, plaintiff, child, defendant, or
9 witness, the court shall appoint a qualified interpreter to
10 interpret the proceedings to the deaf person and interpret his
11 testimony or statements and to assist in preparation with
12 counsel.

13 "(d) In any proceeding before any department, board,
14 commission, agency, or licensing authority of the state, in
15 any political subdivision or municipality, wherein any deaf
16 person is a principal party of interest, either as a
17 complainant, respondent, plaintiff, defendant, or witness such
18 department, board, commission, agency, licensing authority or
19 municipality shall appoint a qualified interpreter to
20 interpret the proceedings to the deaf person and to interpret
21 his testimony or statements.

22 "(e) In the event a person who is deaf is arrested
23 and taken into custody for any alleged violation of a criminal
24 law of this state, the arresting officer and his superiors
25 shall procure a qualified interpreter in order to properly
26 interrogate such deaf person and to interpret such person's

1 statements. No statement taken from such deaf person before an
2 interpreter is present may be admissible in court.

3 "(f) Every deaf person whose appearance before a
4 proceeding entitles him to an interpreter should notify the
5 appointing authority of his need prior to any appearance and
6 should request at such time the services of an interpreter;
7 provided that where a deaf person reasonably expects the need
8 for an interpreter to be for a period greater than a single
9 day he should notify the appointing authority and such
10 notification shall be sufficient for the duration of his
11 participation in the proceedings.

12 "(g) An appointing authority may require a person
13 requesting the appointment of an interpreter to furnish
14 reasonable proof of his deafness when the appointing authority
15 has reason to believe that the person is not deaf.

16 "(h) It shall be the responsibility of the
17 appointing authority to channel requests for qualified
18 interpreters through (1) The Alabama Registry of Interpreters
19 for the Deaf; (2) Alabama Association of the Deaf; or, in the
20 alternative, (3) any community resource wherein the appointing
21 authority or the deaf person is knowledgeable that such
22 qualified interpreters can be found. It shall be the
23 responsibility of the Alabama Registry of Interpreters for the
24 Deaf to compile and update annually a listing of qualified
25 interpreters approved by the Alabama Association for the Deaf
26 and to make this listing available to authorities in possible
27 need of interpreter service as provided in this section.

1 "(i) Before a qualified interpreter will participate
2 in any proceedings subsequent to an appointment under the
3 provisions of this section, such interpreter shall make an
4 oath or affirmation that such interpreter will make a true
5 interpretation in an understandable manner to the deaf person
6 for whom he is appointed and that such interpreter will
7 interpret the statements of the deaf person desiring that
8 statements be made, in the English language to the best of
9 such interpreter's skill and judgment. The appointing
10 authority shall provide recess periods as necessary for the
11 interpreter when the interpreter so indicates. Any and all
12 information that the interpreter gathers from the deaf person
13 pertaining to any proceeding then pending shall at all times
14 remain confidential and privileged, or on an equal basis with
15 the attorney-client privilege, unless such deaf person desires
16 that such information be communicated to other persons.

17 "(j) An interpreter appointed under the provisions
18 of this section shall be entitled to a reasonable fee for such
19 services. The fee shall be in accordance with standards
20 established by the Alabama Registry of Interpreters for the
21 Deaf, in addition to actual expenses for travel and
22 transportation. When the interpreter is appointed by a court,
23 the fee and expenses shall be paid out of the State General
24 Fund from "Court Costs Not Otherwise Provided." When the
25 interpreter is otherwise appointed, the fee shall be paid out
26 of funds available to the appointing authority.

27 "§15-1-3.

1 "(a) (1) If at any stage of a criminal proceeding,
2 protection from abuse proceeding, or juvenile court proceeding
3 or during the juvenile court intake process conducted pursuant
4 to Sections 12-15-118 and 12-15-120 and Rule 12 of the Alabama
5 Rules of Juvenile Procedure, the defendant, juvenile,
6 complainant, petitioner, or a witness informs the court that
7 he or she does not speak or adequately understand the English
8 language, the court may appoint an interpreter.

9 "(2) The defendant, juvenile, complainant,
10 petitioner, or witness shall inform the appropriate court of
11 his or her need for an interpreter immediately upon receiving
12 notice to appear in the court.

13 "(3) If the court determines that due process
14 considerations require an interpreter, the court shall appoint
15 a qualified person to interpret the proceedings for the
16 defendant, juvenile, complainant, petitioner, or witness
17 requesting assistance. The interpreter shall also interpret
18 the testimony or statements of the defendant, juvenile,
19 complainant, petitioner, or witness, and, where applicable,
20 assist in communications with counsel.

21 "(4) If the court has reason to believe that the
22 defendant, juvenile, complainant, petitioner, or witness
23 requesting an interpreter is capable of speaking and
24 understanding the English language, the court may require that
25 the requestor provide reasonable proof to the court of his or
26 her inability to speak or understand the English language.

1 "(b) Upon appointment, an interpreter shall swear
2 under oath that he or she will render a true and clear
3 interpretation to the best of his or her skill and judgment.

4 "(c) The relations and communications between an
5 appointed interpreter and the requestor are placed on the same
6 basis as those provided by law between attorney and client.
7 Any information obtained by an interpreter from the requestor
8 pertaining to any proceeding then pending shall at all times
9 remain confidential and privileged, unless the requestor
10 expresses a desire that the information be communicated to
11 another person.

12 "(d) An interpreter appointed pursuant to this
13 section shall be entitled to a fee in an amount calculated
14 according to a fee schedule established by the Administrative
15 Director of Courts with the advice and consent of the state
16 Comptroller for his or her services. The fee shall be in
17 addition to actual expenses for travel and transportation. If
18 the interpreter is appointed by a district, circuit, or
19 appellate court the interpreter shall submit his or her
20 expenses to the judge making the appointment for approval.
21 After approval, the clerk of the court shall forward the
22 expenses of the interpreter to the state Comptroller to be
23 paid from the fund within the State General Fund known as
24 "court assessed costs not provided for." If the interpreter is
25 appointed by another authority, the fee shall be paid out of
26 funds available to that appointing authority. Nothing in this
27 section shall prohibit the court from taxing the costs of the

1 interpreter against one or more of the parties for immediate
2 payment or from requiring reimbursement to the state at a
3 later date."

4 Section 2. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.